

UNITED STATES DISTRICT COURT

SOUTHERN

DISTRICT OF

OHIO

FREDERICK HALL

JUDGMENT IN A CIVIL CASE

V.

ERNIE MOORE

Case Number: 1:02-CV-00034

☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

☒ **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

...the Court ADOPTS the Magistrate Judge's Report and Recommendation (doc. 6). Therefore, the claim alleged in Ground One of Petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (doc. 1) is DENIED. However, a certificate of appealability is ISSUED with respect to the claim alleged in Ground One of the petition because reasonable jurists could debate whether the claim should have been resolved in a different manner or that the issues presented are "adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 323-324 (2003) (quoting *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000)). Additionally, the Court CERTIFIES pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this Order would be taken in "good faith" and, therefore, GRANTS Petitioner leave to proceed on appeal in forma pauperis upon a showing of financial necessity. See Fed. R. App. P. 24 (a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997).

2/29/2008

Date

JAMES BONINI, CLERK

Clerk

s/Kevin Moser

(By) Deputy Clerk